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June 21, 2001

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JUN 21 2001

01-138

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

Ms. Magalie Roman Salas  
Secretary  
Office of the Secretary  
Federal Communications Commission  
Room TW-B-204  
445 Twelfth Street, S.W.  
Washington, D.C. 20544

**REDACTED -  
For Public Inspection**

Re: Application by Verizon Pennsylvania Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization To Provide In-Region, InterLATA Services in Pennsylvania

Dear Ms. Salas:

This is the cover letter for the Application by Verizon Pennsylvania Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization To Provide In-Region, InterLATA Services in Pennsylvania ("the Application").

This Application contains confidential information. We are filing confidential and redacted versions of the Application.

1. The Application consists of (a) a stand-alone document entitled Application by Verizon Pennsylvania for Authorization To Provide In-Region, InterLATA Services in Pennsylvania ("the Brief"), and (b) supporting documentation. The supporting documentation is organized as follows:

- a. Appendix A includes declarations and attachments thereto in support of the Brief;
- b. Appendix B consists of selected material from Pennsylvania Public Utility Commission proceedings and third-party OSS evaluations;

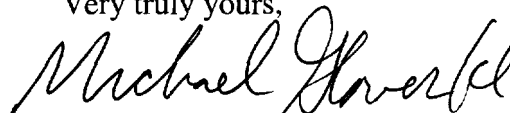
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- c. Appendix C consists of selected interconnection agreements; and
  - d. Appendix D consists of Carrier-to-Carrier reports, which consists entirely of confidential and proprietary data, including CLEC proprietary data.
2. Specifically, we are herewith submitting for filing:
- a. One original of only the portions of the Application that contain confidential information (in paper form, except for Appendix D, which is being filed only on CD-ROM);
  - b. One original of a redacted Application (in paper form);
  - c. One copy of the redacted Application (in paper form);
  - d. Two CD-ROM sets containing the Brief and the supporting-documentation portion of the redacted Application; and
  - e. Five additional copies of the redacted Application (partly in paper form and partly on CD-ROM, in accordance with the Commission's filing requirements), so that each Commissioner may receive a copy.
3. We are also tendering to you certain copies of this letter and of portions of the Application for date-stamping purposes. Please date-stamp and return these materials.
4. Under separate cover, we are submitting copies (redacted as appropriate) of the Application to Ms. Janice Myles, Policy and Program Planning Division, Common Carrier Bureau, Federal Communications Commission, Room 5-C-327, 455 12th Street, S.W., Washington, D.C. 20544. We are also submitting copies (redacted as appropriate) to the Department of Justice, to the Pennsylvania Public Utility Commission, and to ITS (the Commission's copy contractor).

Thank you for your assistance in this matter. If you have any questions, please call me at 703-974-2944 or Steven McPherson at 703-974-2808.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael Glover", written in a cursive style.

Michael E. Glover

Encs.

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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JUN 21 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Application by Verizon Pennsylvania  
Inc., Verizon Long Distance, Verizon  
Enterprise Solutions, Verizon Global  
Networks Inc., and Verizon Select  
Services Inc., for Authorization To  
Provide In-Region, InterLATA Services  
in Pennsylvania

CC Docket No. 01- 138

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FOR AUTHORIZATION TO PROVIDE IN-REGION,  
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June 21, 2001

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## TABLE OF CONTENTS

INTRODUCTION AND SUMMARY .....	1
I. VERIZON’S APPLICATION SATISFIES THE REQUIREMENTS OF SECTION 271(c)(1)(A) .....	7
II. VERIZON SATISFIES ALL REQUIREMENTS OF THE COMPETITIVE CHECKLIST IN PENNSYLVANIA .....	11
A. Interconnection (Checklist Item 1) .....	17
1. Interconnection Trunks .....	18
2. Collocation .....	19
B. Unbundled Network Elements (Checklist Items 2, 4, 5, and 6) .....	22
1. Unbundled Local Loops .....	22
2. Unbundled Switching .....	40
3. Unbundled Local Transport (Including Interoﬃce Facilities) .....	41
4. Dark Fiber .....	42
5. Combining Unbundled Network Elements .....	43
C. Poles, Ducts, Conduits, and Rights-of-Way (Checklist Item 3) .....	44
D. 911, E911, Directory Assistance, and Operator Call-Completion Services (Checklist Item 7) .....	45
E. White Pages Directory Listings (Checklist Item 8) .....	47
F. Number Administration (Checklist Item 9) .....	49
G. Databases and Associated Signaling (Checklist Item 10) .....	49
H. Number Portability (Checklist Item 11) .....	51
I. Local Dialing Parity (Checklist Item 12) .....	51
J. Reciprocal Compensation (Checklist Item 13) .....	52
K. Resale (Checklist Item 14) .....	52

L.	Operations Support Systems .....	56
1.	Pre-Ordering .....	57
2.	Ordering .....	59
3.	Provisioning .....	63
4.	Maintenance and Repair .....	64
5.	Billing .....	65
6.	Technical Support and Change Management .....	67
III.	VERIZON IS FULLY IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 272.....	68
A.	Verizon’s Separate Affiliates Comply Fully with the Structural and Transactional Requirements of Section 272(b).....	69
B.	Verizon Will Comply with the Non-Discrimination Safeguards of Section 272(c) .....	70
C.	Verizon Will Comply with the Audit Requirements of Section 272(d) .....	70
D.	Verizon Will Fulfill All Requests in Accordance with Section 272(e) .....	71
E.	Verizon and Its Affiliates Will Comply with the Joint Marketing Provisions of Section 272(g).....	72
F.	Verizon’s Compliance Program Will Ensure Satisfaction of Its Obligations Under Section 272 .....	73
IV.	APPROVING VERIZON’S APPLICATION IS IN THE PUBLIC INTEREST.....	73
A.	Local Competition in Pennsylvania Is Already Thriving, and Verizon’s Entry Will Increase Local Competition Further Still.....	74
B.	Local Markets in Pennsylvania Will Remain Open After Verizon Obtains Section 271 Approval .....	79
1.	The Regulatory Framework in Pennsylvania Strongly Favors Competition.....	80
2.	Verizon Is Subject to Comprehensive Performance Reporting and Performance Assurance Mechanisms. ....	84
C.	Verizon’s Entry Will Increase Long Distance Competition. ....	90
	CONCLUSION.....	94

## ATTACHMENTS

### Attachment A: Figures and Map

Exhibit 1. Verizon's Checklist Compliance Under the 1996 Act

Exhibit 2. Local Competition in Pennsylvania

Exhibit 3. Total CLEC Lines by Area Code

### Attachment B: Required Statements

### Attachment C: Detailed Index of Appendices (Separately Bound)

## APPENDICES

### Appendix A: Declarations

Volume 1. Tab A – Declaration of Paul A. Lacouture and Virginia P. Ruesterholz  
(Competitive Checklist)

Volume 2. Tab B – Joint Declaration of Kathleen McLean, Raymond Wierzbicki, and  
Catherine T. Webster  
(Operations Support Systems)

Tab C – Joint Declaration of Catherine Bluvol and Sameer Kumar  
(Operations Support Systems)

Volume 3. Tab D – Joint Declaration of Elaine M. Guerard, Julie A. Canny, and  
Marilyn C. DeVito  
(Performance Measurements)

Tab E – Joint Declaration of Robert H. Gertner, Gustavo E. Bamberger,  
and Michael P. Bandow  
(Unbundled DSL Loop Performance Data)

Volume 4. Tab F – Declaration of Susan C. Browning  
(Section 272 Compliance)

Tab G – Declaration of George C. Dowell  
(Separate Data Affiliate)

Tab H – Declaration of William E. Taylor  
(Local Competition and InterLATA Competition)

Appendix B: Selected State Record Material

Appendix C: Selected Interconnection Agreements

Appendix D: Carrier-to-Carrier Reports

(Appendix D consists entirely of confidential and proprietary data, including CLEC proprietary data; this appendix is being filed only on CD-ROM.)

## INTRODUCTION AND SUMMARY

The local market in Pennsylvania is open, the checklist is satisfied, and consumers are now entitled to the enormous benefits that experience has shown will follow from Verizon's entry into the long distance business. Verizon's Application to provide interLATA services originating in Pennsylvania should be granted.

The Pennsylvania Public Utility Commission has reached the very same conclusion based on a "thorough and comprehensive investigation of Verizon's compliance with the statutory requirements enumerated in section 271(c)." Indeed, the PUC's investigation was so thorough that even AT&T's own chairman has been forced to concede that "Pennsylvania is just doing a wonderful job to open up the local telephone market to competition."

Based on its exhaustive investigation, the PUC determined that Verizon's current performance satisfies the checklist in all respects. The PUC also concluded that, with a few now-adopted changes to the State's Performance Assurance Plan, local markets in Pennsylvania are and will remain "fully and irreversibly open to competition." In addition, echoing the findings that this Commission made in both Massachusetts and New York, the PUC found that "allowing Verizon into Pennsylvania's in-region long distance market will provide additional public benefit by giving Pennsylvania customers greater choice in that market as well."

As the facts on the ground demonstrate, the PUC's findings are obviously correct. Competing carriers in Pennsylvania now serve approximately *one million lines*, and one-third of those lines are residential. Moreover, as in Massachusetts and New York, competing carriers are serving customers using all three entry paths available under the Act. As the Department of Justice has explained, "[i]f actual, broad-based entry through each of the entry paths contemplated by Congress is occurring in a state, this will provide invaluable evidence supporting a strong presumption that the BOC's markets have been opened."



In Pennsylvania, the numbers speak for themselves. Across the State, local competitors are using all 14 of the checklist items to serve:

- more than 600,000 lines through facilities they have deployed themselves;
- more than 385,000 lines through unbundled network elements; and
- more than 160,000 lines through resale.

In addition, competitors are exchanging roughly two billion minutes of traffic each month with Verizon over a local interconnection network that — with more than 370,000 trunks in service — is more than three-fourths the size of Verizon's own local interconnection network. And competitors have access to more than 90 percent of Verizon's access lines in Pennsylvania through the approximately 2,000 collocation arrangements they have obtained.

Moreover, Verizon is providing access to each of the 14 checklist items using substantially the same processes and procedures that it uses in Massachusetts and New York. In both of those states, the Commission found that Verizon satisfied the Act in all respects. In addition, Verizon measures its performance in providing access to the checklist items in Pennsylvania under comprehensive performance measurements adopted by the PUC. And the majority of these measurements — about 70 percent — also are the same as those used in Massachusetts and New York.

As the results reported under these measurements confirm, Verizon's performance is excellent across the board, including in those areas that were the subject of dispute in prior applications. Again, the numbers speak for themselves. From February through April 2001 — the most recent three-month period for which data are available — Verizon's performance under the PUC-approved measurements demonstrates that it:

- met the intervals for providing interconnection trunks to CLECs approximately 99 percent of the time;

- met the intervals for providing physical collocation arrangements to CLECs 100 percent of the time;
- completed 99 percent of CLECs' platform orders, and 96 percent of CLECs' stand-alone voice-grade loop orders, on time;
- completed nearly 97 percent of CLECs' hot-cut orders on time; and
- met more than 97 percent of its installation appointments for CLECs' unbundled DSL-capable loops, and more than 96 percent of its installation appointments for CLECs' line-sharing orders.

This excellent performance also bears out the fact that Verizon provides competing carriers access to the various checklist items in Pennsylvania through operations support systems that are just as checklist-compliant as the systems in Massachusetts and New York. Indeed, Verizon provides CLECs with the same interfaces to obtain access to its systems as in those states, as well as the same support mechanisms and processes. Moreover, while the back-end systems in Pennsylvania are different from those in Massachusetts and New York, the Pennsylvania systems are handling large commercial volumes, and they have been subjected to an independent third-party test by KPMG that Verizon passed with flying colors. KPMG conducted a "comprehensive review" of Verizon's systems "under the direct supervision" of the PUC. Verizon satisfied 468 of the 474 test criteria relating to its operation support systems — 99 percent — and there is no longer an issue with respect to the other six criteria.

Verizon's strong test results also are confirmed by real-world experience. Verizon's systems are handling large and increasing volumes of transactions. For example, in the first four months of this year:

- Verizon's pre-ordering systems processed more than 1.8 million transactions, more than in all of 2000;
- Verizon's ordering systems processed more than 600,000 transactions, more than three times the number in the same period last year;

- Verizon's maintenance and repair systems processed more than 39,000 transactions; and
- Verizon's billing systems created more than 360 million call records, more than three times the number in the same period last year.

Just as Verizon's performance in Pennsylvania clearly satisfies the requirements of the Act, so do its wholesale rates. Although pricing has been an issue in prior section 271 proceedings, there can be no legitimate dispute about Verizon's rates here. The PUC conducted an exhaustive pricing proceeding that established wholesale rates that are even lower than those this Commission has approved in the past. Consequently, even WorldCom has admitted that Verizon's rates in Pennsylvania "permit competitive entry," and create a local market that "is open to competition and where MCI WorldCom can offer a quality product at a reasonable price." Indeed, both WorldCom and AT&T have argued elsewhere that the rates in Pennsylvania are so low that they should be the standard for rates in other states.

Verizon also is subject to a comprehensive, self-executing Performance Assurance Plan in Pennsylvania. This Plan was designed and implemented by the PUC itself, following lengthy proceedings involving dozens of parties. The final Plan is designed to ensure that Verizon provides superior wholesale service to CLECs operating in Pennsylvania, and therefore provides "strong assurance that the local market will remain open after [Verizon] receives section 271 authorization."

Despite all this, the long distance incumbents and others will no doubt attempt to use this proceeding to generate delay in order to maintain a competitive advantage. As they have in other proceedings, they will focus narrowly on isolated aspects of Verizon's performance to argue that this Application should be denied because Verizon has not yet reached an unattainable level of absolute, metaphysical perfection in every conceivable respect. But, as the Commission and the

D.C. Circuit have made clear, perfection, metaphysical or otherwise, is not the standard, and they will “not allow ‘the infeasible perfect to oust the feasible good.’” AT&T Corp. v. FCC, 220 F.3d 607, 633 (D.C. Cir. 2000) (citation omitted). And here, the simple fact is that local markets in Pennsylvania are open, Verizon’s performance is excellent, and its Application to provide long distance should be granted.

Moreover, as both the PUC and this Commission have recognized, Verizon’s long distance entry will produce enormous benefits. Indeed, actual experience proves that Verizon’s entry will both promote more local competition and create significant benefits for customers of long distance service.

As this Commission has found, local competition has increased dramatically in those in-region states where Verizon and other Bell companies have been authorized to provide long distance service. The reason for this is that the major long distance carriers respond to imminent or actual Bell company entry into long distance by competing aggressively for mass-market local customers. They have begun doing so in Pennsylvania, just as they did in New York. And in New York, local competition exploded after Verizon’s entry: competitors in New York served just over one million lines at the time of Verizon’s application, and today serve more than three million lines. One independent consumer group has estimated that the increase in local competition as a result of Verizon’s entry has saved consumers in New York up to *\$400 million per year*. And the Commission itself recently concluded that “states with long distance approval show [the] greatest competitive activity.”

In addition to prompting the long distance incumbents to enter the local mass market for the first time, Verizon’s entry also has allowed it to introduce simpler and less expensive long distance services tailored to benefit the mass-market customers that the incumbents historically

have preferred to abandon or ignore. As a result of these innovative new plans, more than 1.7 million customers in New York have switched their long distance service to Verizon. According to the same independent consumer group mentioned above, these consumers are now saving up to nearly *\$300 million dollars a year*. And this savings does not even account for the fact that AT&T has recently raised its basic long distance rates — the rates paid by nearly half of its residential customers —yet again.

By any measure, therefore, Verizon's entry into the long distance market in New York has greatly enhanced both local and long distance competition. Consumers in Pennsylvania — where Verizon's local markets are open to the same degree as in New York — are now entitled to receive these same benefits.

The Commission should grant this Application.

**I. VERIZON'S APPLICATION SATISFIES THE REQUIREMENTS OF SECTION 271(c)(1)(A).**

This Application unquestionably satisfies the requirements to file an application under so-called "Track A." See 47 U.S.C. § 271(c)(1)(A). Whether they are viewed collectively or individually, competitors in Pennsylvania are providing service predominantly over their own facilities to both residential and business subscribers.<sup>1</sup> The Pennsylvania PUC has confirmed this fact, finding that "Verizon complies with the statutory requirements of Section 271(c)(1)(A) regarding the presence of facilities-based competitors." PUC Recommendation Letter at 2.<sup>2</sup>

As in New York and Massachusetts, competitors in Pennsylvania have invested enormous sums in competing facilities throughout the State. See Taylor Decl. ¶ 40. This not only means that the requirements of Track A are easily satisfied, but it also means that competitors have voted with their wallets, demonstrating their own belief that local markets in Pennsylvania are open and will stay that way. As the Department of Justice has explained, the fact that competitors have "commit[ted] significant irreversible investments to the market (sunk costs) signals their perception that the requisite cooperation from incumbents has been secured or that any future difficulties are manageable."<sup>3</sup>

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<sup>1</sup> References to Verizon in Pennsylvania mean the former Bell Atlantic serving area in Pennsylvania.

<sup>2</sup> Letter from Terrance J. Fitzpatrick, Commissioner, Pennsylvania PUC, to Julia A. Conover, Vice President and General Counsel, Verizon Pennsylvania Inc. (June 6, 2001) (App. B, Tab A-3).

<sup>3</sup> Affidavit of Marius Schwartz ¶ 174, Competitive Implications of Bell Operating Company Entry Into Long-Distance Telecommunications Services (May 14, 1997) ("Schwartz Aff."), attached at Tab C to Evaluation of the United States Department of Justice, Application of SBC Communications Inc. et al. Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in the State of Oklahoma, CC Docket No. 97-121 (FCC filed May 16, 1997) ("DOJ Oklahoma Evaluation").

On a collective basis, even by the most conservative of estimates, competing carriers in Pennsylvania served more than 600,000 subscribers as of April 2001 using facilities they deployed themselves,<sup>4</sup> which is more than three times the number they serve through resale. See Taylor Decl. Att. 1, ¶ 1. And as of this same date, competing carriers served more than 290,000 *residential* subscribers using their own facilities,<sup>5</sup> which is more than eight times the number of residential subscribers they served through resale. See Taylor Decl. Att. 1, ¶ 1. Overall, therefore, competing carriers in Pennsylvania unquestionably are providing service on a predominantly facilities basis.

Moreover, just as this is true overall, it also is true of individual carriers. For example, looking just at four of the largest carriers in Pennsylvania, they too are providing service predominantly over their own facilities to business and residential subscribers, both individually and collectively.

**1. AT&T.** — AT&T has invested heavily in competing facilities in Pennsylvania and is the largest facilities-based competitor operating in the State. See id. Att. 1, ¶ 16. While the

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<sup>4</sup> This figure is based on the number of E911 subscriber listings that competitors have obtained. In the substantial majority of cases (at least 75 percent in Pennsylvania), where a competitor has obtained an E911 listing for a customer, it serves that customer entirely over its own facilities. In all cases, however, the competitor is using at least its own switch to serve that customer. These figures are conservative. Each E911 subscriber listing necessarily represents one customer access line, but may represent more than a single line. In the case of business customers, for example, a single E911 listing may represent many individual telephone lines. The total number of E911 listings that competitors have obtained therefore understates the number of facilities-based lines that competitors serve.

<sup>5</sup> The number of facilities-based residential lines is based on the listings submitted for inclusion in Verizon's white pages directory. Unlike E911 listings, facilities-based directory listings may include lines that CLECs serve using so-called unbundled network element platforms. Of course, the Commission previously has held that unbundled network elements qualify as a competitor's own facilities for purposes of the "Track A" requirements. See Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In Michigan, Memorandum Opinion and Order, 12 FCC Rcd 20543, ¶ 101 (1997) ("Michigan Order").

available information necessarily is incomplete, AT&T already has a network in place that consists of at least three local voice switches and at least 885 fiber-route miles. See id. Att. 1, ¶ 17. In addition, AT&T provides residential telephone service over its cable networks in Pennsylvania — networks that already reach approximately 400,000 cable subscribers in the State. See id. Att. 1, ¶ 18. AT&T appears to offer cable telephony services to close to half of these 400,000 subscribers. See id.

AT&T has put its investments in competing facilities to work, providing service over its own facilities to both business and residential subscribers.<sup>6</sup> Although the information available to Verizon necessarily understates the number of facilities-based lines, AT&T serves at least \*\*\* access lines in Pennsylvania over facilities that it has deployed itself. See Taylor Decl. Att. 1, ¶ 16. This includes at least 70,000 residential subscribers that AT&T serves over its own cable network. See id.<sup>7</sup> In contrast, AT&T does not appear to serve any business or residential customers in Pennsylvania through resale. See Taylor Decl. Att. 1, ¶ 16 n.18.

**2. WorldCom.** — WorldCom also has made extensive investments in local facilities throughout Pennsylvania, including at least two local voice switches and fiber networks in Philadelphia and Pittsburgh. See id. Att. 1, ¶ 20.<sup>8</sup> Like AT&T, WorldCom is providing service in Pennsylvania predominantly over its own facilities. Again, while the information available to Verizon necessarily understates the number of facilities-based lines, WorldCom serves at least

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<sup>6</sup> AT&T is providing competing local telephone service under three interconnection agreements with Verizon, all of which the PUC approved in 1997. The first was signed by TCG of Pittsburgh, see App. C, Tab C; the second was signed by TCG of Delaware Valley, see App. C, Tab B; and the third was signed by ACC, see App. C, Tab E.

<sup>7</sup> See Frank Reeves, AT&T Opens Service Center in Pittsburgh, Aims to Employ 800 Workers, Pittsburgh Post-Gazette, June 12, 2001, at E-1 (AT&T Broadband has 70,000 subscribers in Pennsylvania “who obtain local phone service over its [cable] network”).

<sup>8</sup> WorldCom is providing competing local telephone service under a PUC-approved interconnection agreement with Verizon that was approved in 1997. See App. C, Tab D.



\*\*\*      \*\*\* access lines over facilities that it has deployed itself. See Taylor Decl. Att. 1, ¶ 19. In addition, WorldCom serves approximately \*\*\*      \*\*\* residential lines using unbundled network element platforms. See id. In contrast, WorldCom serves fewer than \*\*\*      \*\*\* lines via resale. See id.

3. **RCN.** — RCN began providing competitive local telephone service in Pennsylvania on a resale basis, but now focuses its marketing efforts on facilities-based service. See id. Att. 1, ¶ 21.<sup>9</sup> In order to do so, RCN has deployed at least one local voice switch and more than 450 route miles of fiber. See Taylor Decl. Att. 1, ¶ 21. Again, while the information available to Verizon necessarily is incomplete, RCN serves approximately \*\*\*      \*\*\* access lines through facilities it has deployed itself. See id. RCN’s white pages listings reveal that most of these lines serve residential customers. See id. By contrast, RCN serves approximately \*\*\*      \*\*\* lines through resale, far fewer lines than it serves through the facilities it has deployed. See id. Att. 1, ¶ 21 & n.36.

4. **Commonwealth Telephone Services (“CTSI”).** — CTSI is the CLEC subsidiary of Commonwealth Telephone Enterprises (“CTE”), the second largest incumbent local exchange carrier in Pennsylvania. See id. Att. 1, ¶ 23.<sup>10</sup> It operates competitive voice networks in three “regional markets” — Wilkes-Barre/Scranton/Hazleton, Harrisburg, and Lancaster/Reading/York — that are “all adjacent to CTE’s highly successful, profitable and efficient ILEC . . . operation.”<sup>11</sup> Its networks in these markets consist of at least two local voice switches, 680 route miles of fiber, and last-mile copper facilities. See Taylor Decl. Att. 1, ¶ 23.

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<sup>9</sup> RCN is providing competing local telephone service under a PUC-approved interconnection agreement with Verizon that was approved in 1997. See App. C, Tab A.

<sup>10</sup> CTSI is providing competing local telephone service under a PUC-approved interconnection agreement with Verizon that was approved in 2000. See App. C, Tab F.

<sup>11</sup> CTE Press Release, CTE Announces Restructuring of CTSI Subsidiary (Dec. 6, 2000).

While the information available to Verizon is incomplete, CTSI serves more than \*\*\* access lines over facilities it has deployed itself. See id. CTSI's white pages listings reveal that it serves approximately \*\*\* residential lines in Pennsylvania using its own facilities. See id. CTSI resells only \*\*\* lines in Pennsylvania. See id.

## II. VERIZON SATISFIES ALL REQUIREMENTS OF THE COMPETITIVE CHECKLIST IN PENNSYLVANIA.

Just as Verizon satisfies the "Track A" requirements, it also unquestionably satisfies the requirements of the competitive checklist in Pennsylvania. Verizon is making all 14 checklist items available under the legally binding obligations in its tariffs and approximately 180 interconnection agreements. See id. Att. 1, ¶ 2; Lacouture/Ruesterholz Decl. ¶ 5.<sup>12</sup> Moreover, Verizon is providing the checklist items in large and rapidly increasing commercial quantities. For example, as of April 2001, Verizon had provided some 370,000 interconnection trunks; 2,000 collocation sites; 387,000 unbundled loops (including platforms); 164,000 resold lines; 390,000 directory listings; and 660,000 ported numbers. See Br. Att. A, Exh. 1.

Competitors are using the checklist items to enter the local market using all three entry paths available under the Act, and they are doing so throughout the State. See Br. Att. A, Exh. 3. This is precisely the set of circumstances envisioned by the Department of Justice when it explained that, "[i]f actual, broad-based entry through each of the entry paths contemplated by Congress is occurring in a state, this will provide invaluable evidence supporting a strong

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<sup>12</sup> The only ongoing litigation under 47 U.S.C. § 252(e)(6) that relates to these approved agreements involves a challenge by WorldCom to the PUC's arbitration decision with respect to pricing and other issues. The United States District Court for the Middle District of Pennsylvania affirmed the PUC's decision in part, and reversed and remanded in part. See MCI Telecomms. Corp. v. Bell Atlantic-Pennsylvania, Inc., No. 97-CV-1857 (M.D. Pa. June 30, 2000). Both the PUC and Verizon appealed, those cases were consolidated, and are currently pending before the Third Circuit Court of Appeals. See MCI Telecomms. Corp. v. Verizon Pennsylvania Inc., Nos. 00-2257 & 00-2258 (3d Cir. filed Feb. 14, 2001).

presumption that the BOC's markets have been opened." DOJ Oklahoma Evaluation at 43.

Likewise, the Commission has found that "[t]hese results bear out the fact that Verizon has made extensive efforts to open its local markets in compliance with the requirements of the Act."

Massachusetts Order ¶ 3.<sup>13</sup>

The Pennsylvania PUC has reached the same conclusion, based on a rigorous review of Verizon's checklist compliance that is entitled to maximum deference under the Commission's well-settled precedent. The PUC conducted an "exhaustive analysis" that "focused on every aspect of Verizon's wholesale operations and service to CLECs." PUC Recommendation Letter at 1-2. This analysis involved "years of effort by the Commission, its staff, Verizon, and many interested parties to ensure strict and full compliance with each of the 14-point Checklist items listed in Section 271(c)." Id. at 2. The PUC's examination included "paper filings and testimony, as well as countless hours of informal discussions with Verizon, competing carriers ("CLECs") and interested governmental agencies." Id. The formal docket in the PUC's section 271 proceeding has in fact seen hundreds of submissions totaling thousands of pages from more than 35 parties, and involved 28 days of hearings, filling more than 5,000 pages of transcript. Moreover, the PUC also relied on the extensive work that it performed "in a number of other dockets" outside of the section 271 context. Id. Indeed, the PUC's examination has been so comprehensive, that even AT&T's own chairman has been forced to concede that "Pennsylvania is just doing a wonderful job to open up the local telephone market to competition."<sup>14</sup>

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<sup>13</sup> Application of Verizon New England Inc., et al., For Authorization to Provide In-Region, InterLATA Services in Massachusetts, Memorandum Opinion and Order, CC Docket No. 01-9 (rel. Apr. 16, 2001).

<sup>14</sup> Jeff May, State Faces Long Strides to Telecom Parity, Star-Ledger, June 13, 2000 (quoting AT&T Chairman C. Michael Armstrong).

Based on its “exhaustive and rigorous investigation,” New York Order ¶ 51,<sup>15</sup> the PUC determined that Verizon “has demonstrated its compliance” with the competitive checklist. PUC Recommendation Letter at 1.<sup>16</sup> The PUC also concluded that, with a few now-adopted changes to the State’s Performance Assurance Plan, local markets in Pennsylvania are and will remain “fully and irreversibly open to competition.” PUC Recommendation Letter at 5. And as summarized below, the PUC’s conclusions are supported by overwhelming evidence.

*First*, Verizon’s actual performance in providing access to each of the 14 checklist items is excellent across the board. For example, from February through April 2001, Verizon met the intervals for providing interconnection trunks to CLECs approximately 99 percent of the time, and for providing physical collocation arrangements to CLECs 100 percent of the time. See Lacouture/Ruesterholz Decl. ¶¶ 21, 44.

Verizon’s performance is equally strong in providing access to loops and other unbundled network elements. For example, from February through April, Verizon completed 96 percent of CLECs’ new stand-alone voice-grade loop orders on time. See id. ¶ 108. During this same period, Verizon completed 99 percent of CLECs’ platform orders — which include unbundled switching and unbundled shared transport — on time, and it completed these platform orders in less time, on average, than it took to provision its own retail service. See id. ¶ 308. And while

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<sup>15</sup> Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York, Memorandum Opinion and Order, 15 FCC Rcd 3953 (1999).

<sup>16</sup> Although the PUC’s findings were premised on Verizon’s agreeing to modify its Performance Assurance Plan, the PUC did not raise any issues with respect to Verizon’s current compliance with the checklist. As this Commission consistently has held, issues relating to performance assurance plans are issues of continued “future compliance,” and therefore relate to the public interest analysis under section 271(d)(3)(C), and not the checklist-compliance analysis under section 271(d)(3)(A). See, e.g., Massachusetts Order ¶ 236; New York Order ¶ 429; Joint Application by SBC Communications Inc., et al., for Provision of In-Region, InterLATA Services in Kansas and Oklahoma, Memorandum Opinion and Order ¶ 269, CC Docket No. 00-

hot-cut provisioning has been an issue in prior proceedings, Verizon has completed nearly 97 percent of CLECs' hot-cut orders on time and its processes have won the accolades of prestigious international standards bodies. See id. ¶¶ 130, 134.

Likewise, while Verizon's DSL provisioning has been an issue in prior proceedings, there can be no legitimate dispute about its performance in Pennsylvania. From February through April, Verizon met more than 97 percent of its installation appointments for CLECs' unbundled DSL-capable loops, and more than 96 percent of its installation appointments for CLECs' line-sharing orders. See id. ¶¶ 169, 221. Moreover, Verizon's average time to install unbundled DSL loop orders was even shorter than the standard interval. See id. ¶ 171. In addition, the quality of the DSL loops that Verizon installs is equal in quality to Verizon's own retail service, and, for those loops that do experience problems, Verizon is meeting its repair appointments for CLECs more often than for its retail customers. See id. ¶¶ 181, 190.

*Second*, Verizon's systems have undergone "extensive third party testing" by KPMG that Verizon passed with flying colors. New York Order ¶ 10; see McLean/Wierzbicki/Webster Decl. ¶¶ 11-24. Like the tests in New York and Massachusetts, the KPMG test in Pennsylvania was "broad in scope," "independent and blind," and used a "military-style test standard." Massachusetts Order ¶¶ 44-45. This test accordingly provides "persuasive evidence of [Verizon's] OSS readiness." Id. ¶ 46; see also New York Order ¶ 100. Altogether, the KPMG test evaluated 474 separate items relating to Verizon's operations support systems. See McLean/Wierzbicki/Webster Decl. ¶ 23. Verizon satisfied 468 of the 474 test elements — 99 percent — and there is no longer an issue even with respect to the other six criteria. See id. ¶¶ 23, 107-109.

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217 (rel. Jan. 22, 2001) ("Kansas/Oklahoma Order").

*Third*, as in New York and Massachusetts, Verizon reports its performance under measurements that “track Verizon’s performance on functions essential to an open, competitive local market.” Massachusetts Order ¶ 237; see Guerard/Canny/DeVito Decl. ¶¶ 16-17. The majority of these measurements — about 70 percent — are the same as those used in New York and Massachusetts. And for some categories, like DSL loops and line sharing, the measurements in Pennsylvania track those used in New York and Massachusetts. See Guerard/Canny/DeVito Decl. ¶ 19.<sup>17</sup> Moreover, Verizon’s performance measurements have been independently validated by KPMG following an exhaustive analysis. KPMG began this analysis in the middle of last year, and more recently has reconfirmed its conclusion based on Verizon’s January 2001 data. See Guerard/Canny/DeVito Decl. ¶ 143.

*Finally*, Verizon is subject to a comprehensive Performance Assurance Plan in Pennsylvania that was designed and implemented by the Pennsylvania PUC. As described in more detail below, this Plan ensures that Verizon provides superior quality wholesale service to CLECs.

Despite all this, competitors will claim that this Application should be denied because Verizon has not yet attained an unattainable level of absolute perfection. But the Commission repeatedly has made clear that perfection is not the standard. See, e.g., Massachusetts Order ¶ 13; New York Order ¶ 5; Michigan Order ¶ 278. Instead, where retail analogues exist, the standard is “parity,” which means simply that, where differences do exist, they are not so large as to be competitively significant. And, where retail analogues do not exist, access must be

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<sup>17</sup> See also DSL Metrics Order, Consultative Report on Application of Verizon Pennsylvania Inc. for FCC Authorization to Provide In-Region, InterLATA Service in Pennsylvania; Joint Petition of NEXTLINK et al., Docket Nos. M-00001435 & P-00991643 (Pa. PUC Feb. 22, 2001) (“DSL Metrics Order”) (App. B, Tab A-2).

sufficient to “allow an efficient competitor a meaningful opportunity to compete.” New York Order ¶ 5; see also Massachusetts Order ¶ 11.

Moreover, under either of these standards, the Commission evaluates a BOC’s performance “based on the totality of the circumstances,” and “an apparent disparity in performance for one measure, by itself, may not provide a basis for finding noncompliance with the checklist,” Texas Order ¶ 58,<sup>18</sup> if “the performance demonstrated by all the measurements as a whole” shows parity, Kansas/Oklahoma Order ¶ 32. Similarly, the fact that a measure may appear to reflect such a disparity does not necessarily mean that the applicant has not complied with the checklist if the disparity has “little or no competitive significance,” or may be traced to CLEC behavior or other “factors outside of [the applicant’s] control.” New York Order ¶¶ 59, 202; Massachusetts Order ¶ 13; see also Kansas/Oklahoma Order ¶ 32 (“We may also find that the reported performance data is impacted by factors beyond a BOC’s control, a finding that would make us less likely to hold the BOC wholly accountable for the disparity.”).

Applying these standards here, it is abundantly clear that the checklist requirements are satisfied. Indeed, the comprehensive record here goes well beyond merely establishing a *prima facie* case, which alone would shift the burden of proof to Verizon’s opponents to “produce evidence and arguments to show that the application does not satisfy the requirements of section 271.” Texas Order ¶ 49; accord New York Order ¶ 49.

Here, the fact that the Pennsylvania PUC also has given its approval based on its own extensive evaluation should establish a strong presumption that Verizon complies with the

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<sup>18</sup> Application by SBC Communications Inc., et al., Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services In Texas, Memorandum Opinion and Order, 15 FCC Rcd 18354 (2000); see also Massachusetts Order ¶ 13 (“We may find that statistically significant differences exist, but conclude that such differences have little or no competitive significance in the marketplace. In such cases, we may conclude

checklist. Indeed, it is the Commission's consistent practice to accord maximum deference to state commission determinations that, as here, are based on "exhaustive and rigorous" investigations. New York Order ¶ 51.<sup>19</sup> This practice is consistent with the language and scheme of the Telecommunications Act of 1996, which assigns to state commissions the role of "verify[ing] the compliance of the Bell operating company with the requirements of" the checklist. 47 U.S.C. § 271(d)(2)(B). Moreover, maintaining a strong presumption in favor of state-commission determinations is essential to ensuring that these commissions continue to find it worthwhile to devote the enormous time and resources required to conduct comprehensive reviews of Bell companies' section 271 applications.

In short, the entirety of the record compiled here demonstrates conclusively that Verizon is providing nondiscriminatory access to the various checklist items, and that its Application should be granted.

**A. Interconnection (Checklist Item 1).**

Verizon provides the same forms of interconnection in Pennsylvania that it provides in Massachusetts and New York, and provides them using substantially the same processes and procedures that it uses in those states. The Commission found in both of those cases that Verizon provides interconnection in a manner fully consistent with the Act and the

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that the differences are not meaningful in terms of statutory compliance.”).

<sup>19</sup> See also, e.g., Texas Order ¶ 4 (according state commission decision “substantial weight” based on the totality of its efforts and the extent of expertise it has developed on section 271 issues”); Application by BellSouth Corporation, et al. Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In Louisiana, Memorandum Opinion and Order, 13 FCC Rcd 6245, ¶ 9 (1998) (“First Louisiana Order”) (“the Commission will consider carefully state determinations of fact that are supported by a detailed and extensive record”); Application of BellSouth Corporation, et al. Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In South Carolina, Memorandum Opinion and Order, 13 FCC Rcd 539, ¶ 29 (1997) (“South Carolina Order”) (same).



Commission's rules. See New York Order ¶ 67; Massachusetts Order ¶¶ 182-193. And as in both Massachusetts and New York, real-world experience in Pennsylvania proves that Verizon is able to meet large and increasing demand for interconnection.

# **1. Interconnection Trunks.**

Verizon provides competing carriers in Pennsylvania with the same kinds of interconnection trunks that Verizon provides in New York and Massachusetts, and provides them using the substantially same processes and procedures that it uses in those states. See Lacouture/Ruesterholz Decl. ¶ 9. In both of those cases, the Commission found that Verizon's provision of interconnection to competing carriers was "equal in quality to the interconnection [Verizon] provides to its own retail operations, and on terms and conditions that are just, reasonable, and nondiscriminatory." Massachusetts Order ¶ 183; see New York Order ¶ 68 (same). The Commission also found that Verizon "provides interconnection at all technically feasible points, as required by our rules, and therefore demonstrates checklist compliance." New York Order ¶ 76.<sup>20</sup> The same is true in Pennsylvania.

Through April 2001, Verizon has provided approximately 40 competing carriers with more than 370,000 interconnection trunks in Pennsylvania. See Lacouture/Ruesterholz Decl. ¶ 10. This is equal to more than *three-fourths* of the total number of trunks that Verizon has connecting its switches in its entire interoffice network in the State. See id. Through these

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<sup>20</sup> Verizon provides interconnection trunks under interconnection agreements and its generally available tariff. See Lacouture/Ruesterholz Decl. ¶ 9. Verizon provides interconnection to the trunk sides of end office and tandem switches, and to Verizon's signaling network, and provides both one-way and two-way trunks, 64 Kbps Clear Channel trunks, and traditional 56 Kbps trunks. See id. ¶¶ 14-16. Verizon also will accept requests from CLECs for interconnection at other technically feasible points under processes approved by the PUC. See id. ¶ 9.